

## REMARKS

Claims 11 and 12 are pending. Claim 11 has been amended and claim 12 is new. Support for the amendments to claim 11 and for new claim 12 can be found at least in original claims 9 and 10, respectively. Support for the “identification” step recited in claims 11 and 12 may be found at least on page 1, lines 13-15 of the application as filed. And support for “obesity” in claim 11 may be found at least on page 1, lines 4-7 of the application as filed. Accordingly, no new matter has been introduced by way of the amendments to claim 11 and by the introduction of new claim 12.

### I. *Interview Summary*

Applicant wishes to thank Examiners Chen and Miller for the productive interview of March 30, 2009. Briefly, during the interview, Applicant’s representatives discussed amended claims and how those claims distinguished over the prior art of record. The Examiners kindly suggested that Applicant file a response with those claims along with arguments setting forth how those claims distinguish over the prior art of record.

### II. *The rejection under 35 U.S.C. § 102(b) should be withdrawn*

Claims 9-11 stand rejected over U.S. Patent No. 5,399,348 to Schwabe for the reasons set forth on page 3 of the Office Action.

Claim 11, as amended, is directed to a method for treating obesity in a warm-blooded animal. The method comprises the step of identifying a warm-blooded animal that is obese. The obesity is treated by administering to the warm-blooded an effective amount of a Ginkgo extract comprising from 20 to 30 % of flavoneglycosides, from 2.5 to 4.5 % in total of ginkgolides A, B, C and J, from 2 to 4 % of bilobalide, less than 10 % of proanthocyanidines and less than 10 ppm of compounds of alkylphenol type. The effective amount of the Ginkgo extract promotes a gain in muscle mass to the detriment of fatty mass in the warm-blooded animal, thereby treating obesity.

Claim 12, although similar to claim 11, is directed to a method of effecting weight gain in a warm-blooded animal. The weight gain is effected by administering an effective amount of the Ginkgo extract. The extract promotes a gain in muscle mass to the detriment of fatty mass in the warm-blooded animal, thereby causing the warm-blooded animal to gain weight.

Applicant respectfully points out that while Schwabe teaches the claimed Ginko extract, he does not teach treating obesity or effecting weight gain with the extract. Nor does Schwabe teach the specific steps of the claimed methods. Specifically, Schwabe does not teach identifying a warm-blooded animal that is obese or that is in need of gaining weight. And Schwabe does not teach administering to that warm-blooded animal the claimed Ginko extract, thereby treating the obesity or effecting the weight gain. Instead, Schwabe teaches the use of the claimed Ginko extract to stimulate the circulation of blood, prevent ischemic disorders and inhibit platelet aggregations. Schwabe at 4:66-5:2. Accordingly, Schwabe does not anticipate the pending claims because he does not teach each and every limitation recited in those claims. Reconsideration and withdrawal of the rejection are respectfully requested.

Applicant also offers that the population suffering from circulatory problems, ischemic disorders, and/or platelet aggregation is not necessarily the same population that suffers from obesity or the same population that is in need of weight gain. In short, Schwabe is not treating the same populations of patients that are treated using the claimed methods. Accordingly, Schwabe does not inherently anticipate the claimed invention. For at least this additional reason, Applicant respectfully requests reconsideration and withdrawal of the rejection.

III. *The rejection under 35 U.S.C. § 103(a) should be withdrawn*

Claims 9-11 stand rejected over U.S. Patent No. 5,389,370 to O'Reilly *et al.* for the reasons set forth on pages 4 and 5 of the Office Action.

O'Reilly teaches a Ginko biloba extract to treat conditions similar to those treated by Schwabe. For example, O'Reilly teaches the use of Ginko biloba extracts to treat peripheral and cerebral arterial circulation disturbances (1:18-20) and to treat demyelinating neuropathies and cerebral edemas (3:22-29).

O'Reilly does not render the claimed invention obvious for at least three reasons. First, O'Reilly does not even teach a Ginko biloba extract with ranges of flavoneglycosides, ginkolides, and bilobalide that overlap with the claimed ranges. Second, Applicant respectfully points out that O'Reilly does not teach, suggest, or otherwise contemplate the specific steps of the claimed methods. Specifically, O'Reilly does not teach identifying a warm-blooded animal that is obese or that is in need of gaining weight. And O'Reilly does not teach, suggest, or otherwise contemplate administering to that warm-blooded animal the claimed Ginko extract,

thereby treating the obesity or effecting the weight gain. Third, Applicant offers that the population suffering from peripheral and cerebral arterial circulation disturbances, demyelinating neuropathies, and/or cerebral edemas is not necessarily the same population that suffers from obesity or the same population that is in need of weight gain. In short, O'Reilly is not treating the same populations of patients that are treated using the claimed methods. Accordingly, for at least these three reasons, O'Reilly does not render the claimed invention obvious. Applicant therefore respectfully requests reconsideration and withdrawal of the rejection.


IV. *Conclusion*

In view of the foregoing, it is believed that this application is now in condition for allowance, and a Notice thereof is respectfully requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 955-1500. All correspondence should continue to be directed to our address given below.

Respectfully submitted,  
HUNTON & WILLIAMS LLP

Dated: April 6, 2009

By:   
Robert M. Schulman  
Registration No. 31,196

Ricardo J. Moran  
Registration No. 48,735

Hunton & Williams LLP  
Intellectual Property Department  
1900 K Street, N.W.  
Suite 1200  
Washington, DC 20006  
(202) 955-1500 (telephone)  
(202) 778-2201 (facsimile)